

**Opening Statement of the Honorable Mary Bono Mack  
Subcommittee on Commerce, Manufacturing, and Trade  
Hearing on "Balancing Privacy and Innovation:  
Does the President's Proposal Tip the Scale?"**

**March 29, 2012**

*(As Prepared for Delivery)*

Today, as we continue our year-long series of hearings into online privacy, we are rapidly reaching the point where the rubber hits the road.

When it comes to the Internet, how do we – as Congress, as the administration, and as Americans – balance the need to remain innovative with the need to protect privacy? And how hard of a shove would it take to tip that critically important balance in a way that hurts the U.S. economy, American consumers, or both?

Clearly, the explosive growth of technology has made it possible to collect information about consumers in increasingly sophisticated ways. Sometimes the collection and use of this information is extremely beneficial; other times, it's not.

After six privacy hearings, we have covered a lot of ground, and we've learned a lot about consumer concerns. But today, I'm still not certain legislation is necessary, still skeptical of the motives of both industry and government, and still leery that advancements like "Do Not Track" and "eraser button" technology will work as intended.

Frankly – despite the recent, highly-publicized privacy initiatives undertaken by several companies – I don't believe industry is doing enough on its own to protect American consumers, while the government, as we all know, has this really bad habit of overreaching whenever it comes to new regulations. And the prospect of that happening again looms large in this debate.

Which brings us to today's hearing. At first blush, how can anyone oppose the administration's seven privacy principles, such as individual control, transparency, and accountability? It's so "mom and apple pie."

I want to applaud Chairman Leibowitz and Secretary Strickling for your tireless efforts and commitment to this issue. You've done a great job. The privacy framework that you have put forward reflects a lot of time, effort and careful thought when it comes to: "how do we better protect consumer privacy in the future?" I really look forward to discussing this important issue with you today.

But.....

Given Washington's addiction to regulation, I'm very concerned that the White House's Privacy Bill of Rights could morph one day into another Big Government Rules of the Road – complete with red light cameras, speed traps, and traffic cops trying to meet ever-increasing quotas. Talk about stopping the Internet dead in its tracks.

This all reminds me of Joseph Heller's great, satirical World War II novel *Catch 22*, which is based on the premise of a bureaucratic, no-win situation or a "double bind." Today, we could be facing a similar paradox if we're not very, very careful about how we proceed.

In Heller's book, the main character – an Air Force B-25 bombardier flying over the Mediterranean Sea – blurts out at one point: "The enemy is anybody who's going to get you killed – no matter what side he's on." Sound familiar? I bet it does to consumers.

Today, we may be facing a similar sort of circular logic — our very own Catch 22. Some people say we must regulate the Internet to protect privacy. Others say if we go too far to protect privacy, we could hurt the Internet.

Or is there a middle ground – a sweet spot – between too much regulation and no regulation at all? I believe finding that sweet spot is the challenge we are facing today. Clearly, we're making progress on the privacy front. Yet – on the other hand – are rapid technological advancements simply creating a new, different and more complex set of problems? And how capable are regulators of keeping abreast of these changes, without always winding up "a day late and a dollar short?"

Too much is at stake for us to get this wrong. That's why I have advocated since the beginning of these hearings that we need to move forward with an abundance of caution.

To me, the reason is crystal clear.

Even though it serves billions of users worldwide – and e-commerce last year in the United States topped \$200 billion for the first time – the Internet pretty much remains a work in progress.

Still, in just 25 years, the Internet already has spurred transformative innovations.

It has incalculable value. It has become part of our daily lives. And it has unlimited potential to affect positive social and political change, as the world dramatically witnessed during the Arab Spring.

So before we do any possible harm to the Internet, we need to understand what harm is actually being done to consumers. Where is the public outcry for legislation? Today, I'm simply not hearing it. I haven't gotten a single letter from anyone back home urging me to pass a privacy bill.

That may change – and it probably will – if industry doesn't come up with better safeguards for consumers in the future. But right now, we should resist the urge to "rush to judgment" because we feel a compelling need to do something – even if we're not exactly sure what that should be.

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